

[Unapproved and Subject to Change]
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF MEETING, Public Session

August 14, 2008

Call To Order: Chairman Ross Johnson called the meeting to order at 10:05 a.m., at 428 J Street, Eighth Floor, Sacramento, California. Chairman Johnson, Commissioners Tim Hodson, Gene Huguenin, Bob Leidigh, and Ray Remy were present.

- 1. Public Comment.** This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Open Meeting Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed, request clarification, or refer the item to staff.

There was none.

The Chairman announced the Commission was altering the agenda and after Agenda Item 2 would move to Item 18, at the request of Ben Davidian, former Commission Chairman, due to a scheduling conflict.

COMMISSION RESOLUTION

- 2. Resolution of the Commission Honoring the Service of Michael B. Salerno to the State of California.**

Chairman Johnson presented a resolution to Michael Salerno, who served as the FPPC Executive Director for the last 18 months, honoring his service to the State of California.

Mr. Salerno expressed how much he had enjoyed working as the Executive Director with the Chairman, the Commissioners, and the FPPC staff.

Moved by Commissioner Huguenin and seconded by Commissioner Remy to adopt the Resolution as proposed.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- 18. Adoption of Amendments to Regulation 18946.4 - Tickets to Nonprofit Fundraising Events.** Staff: Commission Counsel William J. Lenkeit and General Counsel Scott Hallabrin. Staff proposed amendments to the gift regulation concerning fundraising events for nonprofit and political fundraisers. The proposed amendments would eliminate the current “no value” rule for tickets to fundraising events for 501(c)(3) organizations and instead value a ticket for any nonprofit fundraising event (except for a political committee) as follows: (1) Cost of admission to the public less tax deductible portion of that cost if the ticket is received directly

from the nonprofit organization; and (2) Full admission cost if the ticket is paid for or received from a person other than the nonprofit organization. The proposed amendments would also expand the current “no value” rule for tickets to fundraisers for recipient committees regulated by the Act to fundraisers held in California for federally regulated political committees. Additionally, the “no value” rule for political fundraisers would apply only if the admission is provided directly by the political committee.

Chairman Johnson asked if there were any comments and called on Mr. Ben Davidian. Mr. Davidian, on behalf of the Bob Moretti Memorial Scholarship Foundation, Matt Moretti, Director of the Bob Moretti Memorial Scholarship Foundation, and Melissa Mikesell, representing Alliance for Justice, spoke in opposition of the proposed amendments.

After lengthy discussion, Chairman Johnson proposed the Commission continue with the remainder of the agenda and then return to this item. Staff was directed to make changes and craft additional language to the proposed amendments, and present it to the Commission at that time.

3. Approval of the June 12, 2008, June 24, 2008, and July 15, 2008, Commission meeting minutes.

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve the minutes as submitted.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

4. In the Matter of California First Advocacy Fund, FPPC No. 07/746.

Staff: Commission Counsel Angela Brereton. Respondent California First Advocacy Fund (“Respondent”) was a state general purpose committee. In this matter, from 2003 through 2007, Respondent failed to file a statement of organization in violation of Government Code Section 84101 (1 count), failed to file pre-election campaign statements in violation of Government Code Sections 84200.3, 84200.4, 84200.5, and 84200.8 (4 counts), failed to file semi-annual campaign statements in violation of Government Code Sections 84200, 84200.3, and 84200.4 (8 counts), and failed to disclose making a late contribution to a primarily formed ballot measure committee in a late contribution report in violation of Government Code Section 84203 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of fourteen counts and a \$36,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

5. In the Matter of Phillip Cox, Committee to Elect Phil Cox, and Ralph Anderson, FPPC No. 04/508. Staff: Commission Counsel Margaret Figeroid and Investigator

III Leon Nurse-Williams. Respondent Phillip Cox was elected to the Tulare County Board of Supervisors in November 2004. Regarding the 2004 election, Respondent Cox, his controlled committee, Committee to Elect Phil Cox, and committee treasurer, Ralph Anderson, failed to timely file a semi-annual campaign statement on August 2, 2004, in violation of Government Code Section 84200, subdivision (a) (1 count) and failed to timely file a pre-election campaign statement on October 5, 2004, in violation of Government Code Sections 84200.5, subdivision (b) and 84200.7, subdivision (b) (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of two counts and a \$6,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- 6. In the Matter of Committee for Proposition A, The Rural Lands Initiative, and Judith Sakrison, FPPC No. 04/097.** Staff: Commission Counsel Angela Brereton. Respondent Committee for Proposition A, The Rural Lands Initiative (“Committee”), was a ballot measure committee primarily formed to support the passage of Proposition A in San Diego County in the March 2, 2004, primary election. Respondent Judith Sakrison was the Committee’s treasurer at all times relevant to this matter. In this matter, Respondents failed to maintain campaign records in violation of Government Code Section 84104 (2 counts), failed to disclose required contributor information in violation of Government Code Section 84211, subdivision (f) (4 counts), and failed to include a proper disclosure statement in two television advertisements in violation of Government Code Section 84503 (2 counts).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of eight counts and an \$11,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- 7. In the Matter of Joseph Graham Davis, Jr., Californians Against the Costly Recall of the Governor et al., J. Ari Swiller, and Stephen J. Kaufman, FPPC No. 05/366.** Staff: Commission Counsel Margaret Figeroid. Respondent Californians Against the Costly Recall of the Governor et al. (“Committee”), was formed on July 28, 2003, as a primarily formed committee opposing the recall of then Governor Joseph Graham Davis, Jr. in the October 7, 2003, Statewide Special Election. Respondent Committee, its controlling candidate, Respondent Joseph Graham Davis, Jr., Respondent Committee’s treasurer, Respondent J. Ari Swiller, and assistant treasurer, Respondent Stephen J. Kaufman, violated the Political Reform Act by failing to properly disclose accrued expenses, in violation of Section 84211, subdivisions (i) and (k) of the Government Code and California Code of Regulations, title 2, Section 18421.6 (1 count), by failing to timely disclose a late contribution made, in violation of Section 84203, subdivisions (a) and (b) of the Government Code

(1 count), and by failing to maintain required records of some notices to contributors of \$5,000 or more, in violation of Sections 84104 and 84105 of the Government Code and California Code of Regulations, title 2, Section 18427.1, subdivision (c) (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of three counts and a \$4,950 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

8. In the Matter of Martha M. Escutia, FPPC No. 04/407. Staff: Commission Counsel Bridgette Longero. Respondent Martha Escutia, while a member of the State Senate, failed to disclose sources of income of \$20,000 or more to her spouse's solely-owned business entity on her initially-filed 2002 and 2003 annual statements of economic interests, in violation of Government Code Sections 87203 and 87207 (2 counts).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of two counts and a \$2,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

9. In the Matter of Geoffrey Butler, FPPC No. 07/781. Staff: Commission Counsel Angela Brereton and Political Reform Consultant Teri Rindahl. Geoffrey Butler, as a member of the Strawberry Design Review Board, and "designated employee" under Marin County's Conflict of Interest Code, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and an \$800 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

10. Failure to timely file Major Donor Campaign Statements. Staff: Chief Investigator Sue Straine and Political Reform Consultant Teri Rindahl. The following entities have entered into a stipulation for failing to timely file major donor campaign statements in violation of Government Code Section 84200:

a. In the Matter of Sara Johnson Redlich, FPPC No. 08/256. Sara Johnson Redlich, of Hillsborough, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$11,200 that was due in 2006 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- b. In the Matter of William Shopoff, The Shopoff Group and Affiliated Entities, FPPC No. 08/289.** William Shopoff, The Shopoff Group and Affiliated Entities, of Irvine, failed to timely file semi-annual campaign statements disclosing contributions totaling \$38,115.02 that were due in 2004 & 2005 (2 counts).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of two counts and an \$800 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- c. In the Matter of Pasha Stevedoring & Terminals, L.P., FPPC No. 08/263.** Pasha Stevedoring & Terminals, LP, of Wilmington, failed to timely file semi-annual campaign statements disclosing contributions totaling \$35,600 that were due in 2007 (2 counts).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of two counts and an \$800 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- d. In the Matter of Hartley Cylke Pacific Insurance Services, Inc., FPPC No. 08/227.** Hartley Cylke Pacific Insurance Services, Inc., of San Diego, failed to timely file a semi- annual campaign statement disclosing contributions totaling \$10,000 that was due in 2006 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- e. In the Matter of Independent Insurance Agents & Brokers Association of Los Angeles, FPPC No. 08/226.** Independent Insurance Agents & Brokers Association of Los Angeles, of Banning, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000 that was due in 2004 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- f. In the Matter of GNW-Evergreen Insurance Services LLC, FPPC No. 08/343.** GNW-Evergreen Insurance Services, LLC, of Encino, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000 that was due in 2005 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

11. Failure to Timely File Late Contribution Reports. The following entities have entered into stipulations for failing to timely file late contribution reports in violation of Government Code Section 84203:

- a. In the Matter of William Shopoff, The Shopoff Group and Affiliated Entities, FPPC No. 08/289.** Staff: Chief Investigator Sue Straine and Political Reform Consultant Teri Rindahl. William Shopoff, The Shopoff Group and Affiliated Entities, of Irvine, failed to timely disclose late contributions totaling \$6,000 (6 counts).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of six counts and a \$900 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- b. In the Matter of Time Warner Inc. and Affiliated Entities, FPPC No. 07/717.** Staff: Chief Investigator Sue Straine and Political Reform Consultant Teri Rindahl. Time Warner Inc. and Affiliated Entities, of New York, NY, failed to timely disclose late contributions totaling \$33,000 (19 counts).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of 19 counts and a \$4,950 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- c. **In the Matter of Committee to Elect Lynnel Pollock Supervisor, FPPC No. 06/805.** Staff: Commission Counsel Bridgette Longero. Committee to Elect Lynnel Pollock Supervisor failed to file three late contribution reports totaling \$11,500 (3 counts).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of three counts and a \$1,725 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- 12. In the Matter of Mackey Deasy, FPPC No. 07/756.** Staff: Chief Investigator Sue Straine and Political Reform Consultant Teri Rindahl. Mackey Deasy, Professional Qualifications Committee Member, Architects Board, Department of Consumer Affairs, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- 13. In the Matter of Tony Anello, FPPC No. 06/209.** Staff: Chief Investigator Sue Straine. Tony Anello, Director, Bodega Bay Fire Protection District, failed to timely file a 2004 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$100 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- 14. In the Matter of Paige Bruyn, FPPC No. 06/937.** Staff: Chief Investigator Sue Straine and Political Reform Consultant Teri Rindahl. Paige Bruyn, Vehicle Parking District Commissioner, City of Pomona, failed to timely file her 2005 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$250 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

15. Prenotice Discussion of Proposed Regulation 18402.1 and Amendment of Regulation 18427 – Principal Officer: Definition and Reporting Requirements.

Staff: Commission Counsel Brian G. Lau and General Counsel Scott Hallabrin. Staff proposed defining the term “principal officer” and requiring non-candidate controlled committees to disclose the identity of their principal officers on statements of organization and other filings required by Government Code Section 84101.

Chairman Johnson asked if anyone in the audience had comments.

Betty Ann Downing, of Kaufman Downing, LLP, had a question regarding disclosure of the principal officers for large organizations with several committees. She asked if they would have to file an amended Statement of Organization every time a principal officer changed, and had concerns that excessive work would be involved because the committees had so much turn over. Commission Counsel Brian Lau advised that if the person was involved in decision making, they would need to file an amended Statement of Organization every time there was a change.

Commissioner Leidigh asked Ms. Downing if she would want to work with Mr. Lau on some possible alternative language to this item, and she confirmed she would.

Tony Miller, Chief of Political Reform, Secretary of State’s Office (SOS), advised that this regulation, if adopted, would increase the SOS staff workload, which they could accommodate, and create additional paperwork, but the organizations could file their statements of organization electronically and wouldn’t have to waste paper.

Moved by Chairman Johnson and seconded by Commissioner Leidigh to approve for publication of notice as proposed by staff.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

16. Prenotice Discussion of Proposed Regulation 18229.1 - Dependent Child

Definition. Staff: Commission Counsel Heather M. Rowan and General Counsel Scott Hallabrin. Government Code Section 82029 includes an official’s “dependent children” in the definition of the term “immediate family.” In addition, the Act and Commission regulations make several references to “dependent child” or “dependent children.” There is currently no definition of these terms in the Act or Commission regulations. Staff proposed adding a definition of dependent child/dependent children that is consistent with those terms as used in tax law.

Chairman Johnson put this item over for prenotice discussion at the September 2008 Commission meeting.

17. Adoption of Proposed Regulation 18530.45 - Legal Defense Funds for Local Candidates and Officers.

Staff: Commission Counsel Emelyn Rodriguez and General Counsel Scott Hallabrin. The proposed regulation interprets new Government Code Section 85304.5, allowing candidates or elected officers in a local

government agency to establish legal defense accounts to raise funds for attorney's fees and other legal costs arising from specified civil, criminal, or administrative proceedings. The proposed regulation would serve as the default rule for local government agencies that do not have rules governing legal defense accounts and committees. The regulation would also allow jurisdictions that have established rules to enact different requirements, including any contribution limits, as long as the FPPC's minimum standards are met in areas of reporting, recordkeeping, and establishment of the local legal defense account and legal defense committee.

The Chairman asked if anyone in the audience had comments. There were none.

Moved by Commissioner Huguenin and seconded by Commissioner Leidigh to adopt the regulation as proposed by staff.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

19. Legislative Report. Staff: Executive Director Roman Porter.

Commissioner Leidigh inquired if we were now at the point where bills affecting the Act could no longer be amended.

Mr. Porter advised that it was the 12-day rule, so the 31st was the last day they could enact anything off the floor, and the 15th was the deadline for moving anything out that had a fiscal implication. He also updated the Commission on two assembly bills:

(1) AB 583 (Hancock), the Clean Money Act, moved out of Senate Appropriations and was now in the Senate floor, and, since it was amended in the Senate, if approved, it would then have to go back to the Assembly for approval. It would only affect the Political Reform Act if it was put on the ballot and passed by the voters; then it would amend the Act; and (2) AB 2607 (Davis), Online SEI filing pilot-project, was approved by the Legislature and was now enrolled and on its way to the Governor's desk.

20. Litigation Report. Staff: General Counsel Scott Hallabrin.

Mr. Hallabrin advised since submission of the litigation report, he had an update regarding the *ProLife* case. The court notified the parties that it was taking the motion for attorneys' fees under submission and would be making a decision on the briefs.

21. Executive Director's Report. Staff: Executive Director Roman Porter. As submitted.

22. Chairman's Report. Chairman Ross Johnson.

The Chairman announced that Roman Porter was the new Executive Director and introduced the new Chief of Enforcement, Kourtney Vaccaro. He advised we were into the 90 days before the election and would be posting on the FPPC website the

independent expenditures benefiting candidates for state office for purposes of the general election, just like we did in the primary election, for the public's information.

Chairman Johnson advised that concluded the agenda items for open session and asked staff if they were ready to continue with Item 18. Mr. Hallabrin advised they needed more time and would like to proceed after the executive session.

The Chairman recessed open session at 12:15 p.m. and advised the Commission would immediately convene in executive session.

At 1:00 p.m. the Commission reconvened in open session, and the Chairman advised there was no reportable action in executive session.

The Commission then returned to Item 18 of the agenda. Commission Counsel William Lenkeit and General Counsel Scott Hallabrin presented the regulation with the Commission's proposed changes. The proposed changes amended Regulation 18946.4 to apply the "no value" rule to a single ticket given by a 501(c)(3) organization to an official for admission to its fundraising event, but that the non-tax deductible value of the ticket, or all such tickets provided to the official in a calendar year by the same 501(c)(3) organization cannot exceed the Act's gift limit. Also, the "no value" rule applies to a single ticket given to an official by a candidate or committee for admission to their fundraising event if held in California.

After discussion, staff was directed to make one additional change on line 5, adding the word "single" before the word "ticket" and to bring that version back for review. Chairman Johnson recessed open session at 1:16 p.m. and reconvened in open session at 1:38 p.m., at which time staff presented the final version of the regulation.

Moved by Commissioner Huguenin and seconded by Commissioner Remy to adopt the regulation as amended.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

There being no further business before the Commission, Chairman Johnson adjourned the meeting at 1:55 p.m.

Dated: August 25, 2008

Respectfully submitted,

Beth Manwaring
Commission Assistant

Approved: _____
Ross Johnson
Chairman